

JUN 14 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ADEKUNLE BALOGUN,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-71993

Agency No. A095-965-049

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Adekunle Balogun, a native of Nigeria, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

discretion the denial of a motion to reopen, *Lin v. Holder*, 588 F.3d 981, 984 (9th Cir. 2009), and we deny the petition for review.

The BIA did not abuse its discretion in denying Balogun's motion to reopen to apply for relief under the Convention Against Torture as untimely where the motion was not filed within 90 days of the BIA's final decision, *see* 8 C.F.R. § 1003.2(c)(2), and Balogun failed to demonstrate eligibility for any of the regulatory exceptions to the time limit, *see* 8 C.F.R. § 1003.2(c)(3).

PETITION FOR REVIEW DENIED.